

Statutory Definitions of Tennessee Sexual and Violent Sexual Offenses with Related Codes

Note: The definitions of the crimes listed below are the most recent definitions according to Tennessee statute. It is important to note that statutory definitions may occasionally vary from year to year. To obtain definitions of sexual offenses committed in another state, please refer to that state's Sex Offender Registry.

39-11-411. Accessory after the fact

(a) A person is an accessory after the fact who, after the commission of a felony, with knowledge or reasonable ground to believe that the offender has committed the felony, and with the intent to hinder the arrest, trial, conviction or punishment of the offender:

(1) Harbors or conceals the offender;

(2) Provides or aids in providing the offender with any means of avoiding arrest, trial, conviction or punishment; or

(3) Warns the offender of impending apprehension or discovery.

(b) This section shall have no application to an attorney providing legal services as required or authorized by law.

(c) Accessory after the fact is a Class E felony.

39-13-304. Aggravated kidnapping

(note: the Sex Offender Law requires the victim to be a minor and the offender to not be the parent of the victim for this crime to be classified as a violent sexual offense)

(a) Aggravated kidnapping is false imprisonment, as defined in § 39-13-302, committed:

(1) To facilitate the commission of any felony or flight thereafter;

(2) To interfere with the performance of any governmental or political function;

(3) With the intent to inflict serious bodily injury on or to terrorize the victim or another;

(4) Where the victim suffers bodily injury; or

(5) While the defendant is in possession of a deadly weapon or threatens the use of a deadly weapon.

(b) (1) Aggravated kidnapping is a Class B felony.

(2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim's safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

39-13-516. Aggravated prostitution

(a) A person commits aggravated prostitution when, knowing that such person is infected with HIV, the person engages in sexual activity as a business or is an inmate in a house of prostitution or loiters in a public place for the purpose of being hired to engage in sexual activity.

(b) For the purposes of this section, "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

(c) Nothing in this section shall be construed to require that an infection with HIV has occurred in order for a person to have committed aggravated prostitution.

(d) Aggravated prostitution is a Class C felony.

39-13-502. Aggravated rape

(a) Aggravated rape is unlawful sexual penetration of a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless.

(b) Aggravated rape is a Class A felony.

39-13-531. Aggravated rape of a child

(a) Aggravated rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is three (3) years of age or less.

(b) Aggravated rape of a child is a Class A felony and shall be sentenced within Range III, as set forth in title 40, chapter 35.

39-13-504. Aggravated sexual battery

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons; and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The victim is less than thirteen (13) years of age.

(b) Aggravated sexual battery is a Class B felony.

39-17-1004. Aggravated sexual exploitation of a minor

(a) **(1)** It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material, or possess with the intent to promote, sell, distribute, transport, purchase or exchange material, that includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (a)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (a)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (a)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(b) **(1)** It is unlawful for a person to knowingly promote, sell, distribute, transport, purchase or exchange material that is obscene, as defined in § 39-17-901(10), or possess material that is obscene, with the intent to promote, sell, distribute, transport, purchase or exchange the material, which includes a minor engaged in:

(A) Sexual activity; or

(B) Simulated sexual activity that is patently offensive.

(2) A person who violates subdivision (b)(1) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials involved in a violation under subdivision (b)(1) is greater than twenty-five (25), the person may be charged in a single count to enhance the class of offense under subdivision (b)(4).

(3) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, sold, distributed, transported, purchased, exchanged or possessed the material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(4) A violation of this section is a Class C felony; however, if the number of individual images, materials, or combination of images and materials, that are promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute,

transport, purchase or exchange, is more than twenty-five (25), then the offense shall be a Class B felony.

(c) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, sold, distributed, transported, purchased, exchanged or possessed, with intent to promote, sell, distribute, transport, purchase or exchange material within this state.

39-13-507. Aggravated Spousal Rape

(a) A person does not commit an offense under this part if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c).

(c) (1) "Aggravated spousal rape" is the unlawful sexual penetration of one spouse by the other where the defendant:

(A) Knowingly engaged in conduct that was especially cruel, vile and inhumane to the victim during commission of the offense; and either;

(B) Causes serious bodily injury to the victim; or

(C) Is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(2) Aggravated spousal rape is a Class B felony.

39-2-608. Assault with intent to commit or attempt to commit rape or sexual battery

(a) Assault with intent to commit or attempt to commit rape is a felony punishable by imprisonment in the penitentiary for not less than two (2) nor more than ten (10) years.

(b) Assault with intent to commit or attempt to commit sexual battery is a felony punishable by imprisonment in the penitentiary for not more than three (3) years.

39-12-101. Criminal attempt

(a) A person commits criminal attempt who, acting with the kind of culpability otherwise required for the offense:

(1) Intentionally engages in action or causes a result that would constitute an offense, if the circumstances surrounding the conduct were as the person believes them to be;

(2) Acts with intent to cause a result that is an element of the offense, and believes the conduct will cause the result without further conduct on the person's part; or

(3) Acts with intent to complete a course of action or cause a result that would constitute the offense, under the circumstances surrounding the conduct as the person believes them to be, and the conduct constitutes a substantial step toward the commission of the offense.

(b) Conduct does not constitute a substantial step under subdivision (a)(3), unless the person's entire course of action is corroborative of the intent to commit the offense.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

39-12-103. Criminal conspiracy

(a) The offense of conspiracy is committed if two (2) or more people, each having the culpable mental state required for the offense that is the object of the conspiracy, and each acting for the purpose of promoting or facilitating commission of an offense, agree that one (1) or more of them will engage in conduct that constitutes the offense.

(b) If a person guilty of conspiracy, as defined in subsection (a), knows that another with whom the person conspires to commit an offense has conspired with one (1) or more other people to commit the same offense, the person is guilty of conspiring with the other person or persons, whether or not their identity is known, to commit the offense.

(c) If a person conspires to commit a number of offenses, the person is guilty of only one (1) conspiracy, so long as the multiple offenses are the object of the same agreement or continuous conspiratorial relationship.

(d) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuance of the conspiracy is alleged and proved to have been done by the person or by another with whom the person conspired.

(e) (1) Conspiracy is a continuing course of conduct that terminates when the objectives of the conspiracy are completed or the agreement that they be completed is abandoned by the person and by those with whom the person conspired. The objectives of the conspiracy include, but are not limited to, escape from the crime, distribution of the proceeds of the crime, and measures, other than silence, for concealing the crime or obstructing justice in relation to it.

(2) Abandonment of a conspiracy is presumed if neither the person nor anyone with whom the person conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to that person only if and when the person, advises those with whom the person conspired of the abandonment, or the person informs law enforcement authorities of the existence of the conspiracy and of the person's participation in the conspiracy.

(f) It is no defense that the offense that was the object of the conspiracy was not committed.

(g) Nothing in this section is intended to modify the evidentiary rules allowing statements of co-conspirators in furtherance of a conspiracy.

39-13-109. Criminal exposure to HIV

(a) A person commits the offense of criminal exposure of another to human immunodeficiency virus (HIV) when, knowing that the person is infected with HIV, the person knowingly:

(1) Engages in intimate contact with another;

(note: subsections (a)(2), (a)(3), (b)(1-3), (c) and (d) of this statute are not included in the Sex Offender Law)

(e) Criminal exposure of another to HIV is a Class C felony.

39-11-402. Criminal responsibility for conduct of another

A person is criminally responsible for an offense committed by the conduct of another, if:

(1) Acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense;

(2) Acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or

(3) Having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.

39-11-403. Criminal responsibility for facilitation of felony

(a) A person is criminally responsible for the facilitation of a felony, if, knowing that another intends to commit a specific felony, but without the intent required for criminal responsibility under § 39-11-402(2), the person knowingly furnishes substantial assistance in the commission of the felony.

(b) The facilitation of the commission of a felony is an offense of the class next below the felony facilitated by the person so charged.

39-3703 Criminal sexual conduct -- first degree

A person is guilty of criminal sexual conduct in the first degree if that person engages in sexual penetration with another person and if any of the following circumstances exists:

(1) The victim is twelve (12) years of age or under.

(2) The victim is at least thirteen (13) but less than sixteen (16) years of age and either the actor is related to the victim by blood, or affinity to the third degree, or the actor is in a position of custodial or official authority over the victim and used this authority to coerce the victim to submit. The actor under this subsection must be at least three (3) years older than the victim.

(3) The actor uses a weapon or any article used or fashioned in a manner calculated to lead the victim reasonably to believe it to be a weapon to force or coerce the victim to engage in sexual penetration.

(4) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

(a) When the actor overcomes the victim through the actual application of physical force or physical violence.

(b) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim reasonably believes that the actor has the present ability to execute these threats.

(c) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim reasonably believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes but is not limited to threats of physical punishment, kidnapping, or extortion.

(d) When the actor, through concealment, or by the element of surprise, is able to overcome the victim. Concealment includes the situation in which the actor pretends to be the victim's spouse and the victim reasonably believes the actor to be the spouse.

(5) The actor causes personal injury to the victim, and the actor knows or should, as a reasonable person, know that the victim is mentally defective, mentally incapacitated, or physically helpless.

39-3704. Criminal Sexual conduct- Second degree

(A) A person is guilty of criminal sexual conduct in the second degree if that person engages in sexual contact with another person, and if any of the following circumstances exists:

(1) The victim is under thirteen (13) years of age.

(2) The victim is at least thirteen (13) but less than sixteen (16) years of age, and either the actor is related by blood or affinity to the third degree to the victim, or the actor is in a position of custodial or official authority over the victim and the actor used this authority to coerce the victim to submit. The actor under this section, must be at least three (3) years older than the victim.

(3) The actor uses a weapon or any article used or fashioned in a manner calculated to lead a person reasonably to believe it to be a weapon, to force or coerce the victim to engage in sexual contact.

(4) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact: Force or coercion includes but is not limited to any of the circumstances listed in 39-3703 (A)(4), (a) through (d).

(5) The actor causes personal injury to the victim and the actor knows or should, as a reasonable person, know that the victim is mentally defective, mentally incapacitated or physically helpless.

(B) Second degree criminal sexual conduct is a felony punishable by imprisonment in the penitentiary for a period not less than two (2) years nor more than fifteen (15) years.

Provided, however, if the victim of the offense dies or is seriously injured as the result of an assault committed by the defendant either directly before, after or during the offense and the defendant is convicted of a violation of this section only, such defendant shall be ineligible for probation as provided in 40-2901, parole as provided in 40-3612, work release, trustyship, furlough, or any other program or method whereby the offender's term of imprisonment in the penitentiary may be reduced or enjoys the privilege of supervised or unsupervised release into the community.

39-3705. Criminal sexual conduct- Third degree

(A) A person is guilty of criminal sexual conduct in the third degree, if that person engages in sexual penetration with another person and if any of the following circumstances exists:

(1) The victim is at least thirteen (13) years of age and under sixteen (16) years of age, and the actor under this section is at least three (3) years older than the victim.

(2) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in 39-3703 (A)(4), (a) through (d).

(3) The actor knows or should as a reasonable person, know that the victim is mentally effective, mentally incapacitated, or physically helpless.

(4) When the actor engages in sexual penetration on the pretext of performing a medical examination or treatment for the purpose of achieving sexual penetration.

(B) Third degree criminal sexual conduct is a felony punishable by imprisonment in the penitentiary for a period not less than two (2) years nor more than ten (10) years.

Provided, however, if the victim of the offense dies or is seriously injured as the result of an assault committed by the defendant either directly before, after or during the offense and the defendant is convicted of a violation of this section only, such defendant shall be ineligible for probation as provided in 40-2901, parole as provided in 40-3612, work release, trustyship, furlough, or any other program or method whereby the offender's term of imprisonment in the penitentiary may be reduced into the community.

39-13-305. Especially aggravated kidnapping

(note: the Sex Offender Law requires the victim to be a minor and the offender to not be the parent of the victim for this crime to be classified as a violent sexual offense)

(a) Especially aggravated kidnapping is false imprisonment, as defined in § 39-13-302:

(1) Accomplished with a deadly weapon or by display of any article used or fashioned to lead the victim to reasonably believe it to be a deadly weapon;

(2) Where the victim was under the age of thirteen (13) at the time of the removal or confinement;

(3) Committed to hold the victim for ransom or reward, or as a shield or hostage; or

(4) Where the victim suffers serious bodily injury.

(b) (1) Especially aggravated kidnapping is a Class A felony.

(2) If the offender voluntarily releases the victim alive or voluntarily provides information leading to the victim's safe release, such actions shall be considered by the court as a mitigating factor at the time of sentencing.

39-17-1005. Offense of especially aggravated sexual exploitation of a minor

(a) It is unlawful for a person to knowingly promote, employ, use, assist, transport or permit a minor to participate in the performance of, or in the production of, acts or material that includes the minor engaging in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person violating subsection (a) may be charged in a separate count for each individual performance, image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation.

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly promoted, employed, used, assisted, transported or permitted a minor to participate in the performance of or in the production of acts or material for these purposes, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class B felony. Nothing in this section shall be construed as limiting prosecution for any other sexual offense under this chapter, nor shall a joint conviction under this section and any other related sexual offense, even if arising out of the same conduct, be construed as limiting any applicable punishment, including consecutive sentencing under § 40-35-115, or the enhancement of sentence under § 40-35-114.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

(f) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person promoted, employed, assisted, transported or permitted a minor to engage in the performance of, or production of, acts or material within this state.

39-13-529. Offense of soliciting sexual exploitation of a minor -- Exploitation of a minor by electronic means

(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or Internet service, including webcam communications, directly or through another, to intentionally command, hire, persuade, induce or cause a minor to engage in sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-17-1002, where such sexual activity or simulated sexual activity is observed by that person or by another.

(b) It is unlawful for any person eighteen (18) years of age or older, directly or by means of electronic communication, electronic mail or Internet service, including webcam communications, to intentionally:

(1) Engage in sexual activity, or simulated sexual activity, that is patently offensive, as defined in § 39-17-1002, for the purpose of having the minor view the sexual activity or simulated sexual activity, including circumstances where the minor is in the presence of the person, or where the minor views such activity via electronic communication, including electronic mail, Internet service and webcam communications;

(2) Display to a minor, or expose a minor to, any material containing sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-17-1002, where the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the minor or the person displaying the material; and

(3) Display to a law enforcement officer posing as a minor, and whom the person making the display reasonably believes to be less than eighteen (18) years of age, any material containing sexual activity or simulated sexual activity that is patently offensive, as defined in § 39-

17-1002, where the purpose of the display can reasonably be construed as being for the sexual arousal or gratification of the intended minor or the person displaying the material.

(c) The statute of limitations for the offenses in this section shall be the applicable statute for the class of the offense, or until the child reaches the age of eighteen (18), whichever is greater.

(d) A person is subject to prosecution in this state under this statute for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the conduct involved a minor located in this state.

(e) (1) A violation of subsection (a) is a Class B felony.

(2) A violation of subsection (b) is a Class E felony; provided, that, if the minor is less than thirteen (13) years of age, the violation is a Class C felony.

39-13-302. False imprisonment

(note: the Sex Offender Law requires the victim to be a minor and the offender to not be the parent of the victim for this crime to be classified as a sexual offense)

(a) A person commits the offense of false imprisonment who knowingly removes or confines another unlawfully so as to interfere substantially with the other's liberty.

(b) False imprisonment is a Class A misdemeanor.

39-15-302. Incest

(a) A person commits incest who engages in sexual penetration as defined in § 39-13-501, with a person, knowing the person to be, without regard to legitimacy:

(1) The person's natural parent, child, grandparent, grandchild, uncle, aunt, nephew, niece, stepparent, stepchild, adoptive parent, adoptive child; or

(2) The person's brother or sister of the whole or half-blood or by adoption.

(b) Incest is a Class C felony.

39-13-511. Indecent exposure

(b) (1) A person commits the offense of indecent exposure who:

(A) In a public place, as defined in § 39-11-106, or on the private premises of another, or so near thereto as to be seen from the private premises:

(i) Intentionally:

(a) Exposes the person's genitals or buttocks to another; or

(b) Engages in sexual contact or sexual penetration as defined in § 39-13-501; and

(ii) Reasonably expects that the acts will be viewed by another and the acts:

(a) Will offend an ordinary viewer; or

(b) Are for the purpose of sexual arousal and gratification of the defendant; or

(B) (i) Knowingly invites, entices or fraudulently induces the child of another into the person's residence for the purpose of attaining sexual arousal or gratification by intentionally engaging in the following conduct in the presence of the child:

(a) Exposure of such person's genitals, buttocks or female breasts; or

(b) Masturbation.

(ii) For the provisions of subdivision (b)(1)(B)(i) to apply, the defendant must be eighteen (18) years of age or older and the child victim must be less than thirteen (13) years of age.

(2) "Indecent exposure," as defined in subdivision (b)(1), is a Class B misdemeanor, unless the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, in which event, indecent exposure is a Class A misdemeanor. Additionally, "indecent exposure," as defined in subdivision (b)(1), is a Class E felony when the defendant is eighteen (18) years of age or older, the victim is under thirteen (13) years of age, and the defendant has any combination of two (2) or more prior convictions under this section.

(c) (1) A person confined in a penal institution, as defined in § 39-16-601, commits the offense of indecent exposure who with the intent to abuse, torment, harass or embarrass a guard:

(A) Intentionally exposes the person's genitals or buttocks to the guard; or

(B) Engages in sexual contact as defined in § 39-13-501.

(2) For purposes of this subsection (c), "guard" means any sheriff, jailer, guard, correctional officer or other authorized personnel charged with the custody of the person.

(3) Notwithstanding subdivision (b)(2), a violation of this subsection (c) is a Class A misdemeanor.

(d) This section does not apply to a mother who is breastfeeding her child who is twelve (12) months of age or younger in any location, public or private.

39-13-303. Kidnapping

(note: the Sex Offender Law requires the victim to be a minor and the offender to not be the parent of the victim for this crime to be classified as a sexual offense)

(a) Kidnapping is false imprisonment as defined in § 39-13-302, under circumstances exposing the other person to substantial risk of bodily injury.

(b) Kidnapping is a Class C felony.

39-6-1138. Promotion of performances including sexual conduct by children

(a) As used in this section:

(1) "Child" means any person who has not reached the age of eighteen (18) years;

(2) "Knowingly" shall be defined as in § 39-6-1137(b)(2);

(3) "Performance" means any play, motion picture, photograph or dance. Performance also includes any other visual representation exhibited before a person or persons;

(4) "Promote" shall be defined as in § 39-6-1137(b)(6); and

(5) "Sexual conduct" shall be defined as in § 39-6-1137(b)(9).

(b) It is a felony punishable upon conviction by imprisonment for not less than three (3) years

nor more than twenty-one (21) years and a fine of not more than twenty thousand dollars (\$20,000) for any person to knowingly promote a performance which includes actual or simulated sexual conduct by a child.

(c) It is a felony punishable upon conviction by imprisonment for not less than three (3) years nor more than twenty-one (21) years for any parent or legal guardian or custodian of a child to consent knowingly to the participation by the child in a performance which includes sexual conduct.

(d) Under this section, it is an affirmative defense that the defendant in good faith reasonably believed the person appearing in the performance was sixteen (16) years of age or older.

(e) The provision of this section shall not apply to any public library which is entirely or partially supported by public funds; any recognized and established educational institution and the libraries contained therein; any recognized and established museum; any recognized and established historical society; any licensed practitioner of the healing arts, medical clinic or hospital while engaged in a professional capacity; any governmental agency; any governmental sponsored organization; any other nonprofit association or entity which is engaged in the collection and preservation of historic or religious documents; and any person, employee or agent acting in an official capacity for any such organization.

39-13-503. Rape

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual penetration is accomplished by fraud.

(b) Rape is a Class B felony.

39-13-522. Rape of a child

(a) Rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than three (3) years of age but less than thirteen (13) years of age.

(b) (1) Rape of a child is a Class A felony.

(2) (A) Notwithstanding title 40, chapter 35, a person convicted of a first or subsequent violation of this section shall be punished by a minimum period of imprisonment of twenty-five (25) years. The sentence imposed upon any such person may, if appropriate, exceed twenty-five (25) years, but in no case shall it be less than the minimum period of twenty-five (25) years.

(B) *Section 39-13-525(a)* shall not apply to a person sentenced under this subdivision (b)(2).

(C) Notwithstanding any law to the contrary, the board of probation and parole may require, as a mandatory condition of supervision for any person convicted under this section, that the person be enrolled in a satellite-based monitoring program for the full extent of the person's term of supervision consistent with the requirements of § 40-39-302.

39-13-505. Sexual battery

(a) Sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual contact is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the contact that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or

(4) The sexual contact is accomplished by fraud.

(b) As used in this section, "coercion" means the threat of kidnapping, extortion, force or violence to be performed immediately or in the future.

(c) Sexual battery is a Class E felony.

39-13-527. Sexual battery by an authority figure

(a) Sexual battery by an authority figure is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by the following circumstances:

(1) The victim was, at the time of the offense, thirteen (13) years of age or older but less than eighteen (18) years of age; or

(2) The victim was, at the time of the offense, mentally defective, mentally incapacitated or physically helpless, regardless of age; and,

(3) (A) The defendant was at the time of the offense in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional or occupational status and used the position of trust or power to accomplish the sexual contact; or

(B) The defendant had, at the time of the offense, parental or custodial authority over the victim and used the authority to accomplish the sexual contact.

(b) Sexual battery by an authority figure is a Class C felony.

39-17-1003. Offense of sexual exploitation of a minor

(a) It is unlawful for any person to knowingly possess material that includes a minor engaged in:

(1) Sexual activity; or

(2) Simulated sexual activity that is patently offensive.

(b) A person possessing material that violates subsection (a) may be charged in a separate count for each individual image, picture, drawing, photograph, motion picture film, videocassette tape, or other pictorial representation. Where the number of materials possessed is greater than fifty (50), the person may be charged in a single count to enhance the class of offense under subsection (d).

(c) In a prosecution under this section, the trier of fact may consider the title, text, visual representation, Internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly possessed the material, or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

(d) A violation of this section is a Class D felony; however, if the number of individual images, materials, or combination of images and materials, that are possessed is more than fifty (50), then the offense shall be a Class C felony. If the number of individual images, materials, or combination of images and materials, exceeds one hundred (100), the offense shall be a Class B felony.

(e) In a prosecution under this section, the state is not required to prove the actual identity or age of the minor.

39-12-102. Solicitation

(a) Whoever, by means of oral, written or electronic communication, directly or through another, intentionally commands, requests or hires another to commit a criminal offense, or attempts to command, request or hire another to commit a criminal offense, with the intent that the criminal offense be committed, is guilty of the offense of solicitation.

(b) It is no defense that the solicitation was unsuccessful and the offense solicited was not committed. It is no defense that the person solicited could not be guilty of the offense solicited, due to insanity, minority, or other lack of criminal responsibility or incapacity. It is no defense that the person solicited was unaware of the criminal nature of the conduct solicited. It is no defense that the person solicited is unable to commit the offense solicited because of the lack of capacity, status, or characteristic needed to commit the offense solicited, so long as the person soliciting or the person solicited believes that either or both have such capacity, status, or characteristic.

39-13-528. Offense of solicitation of a minor

(a) It is an offense for a person eighteen (18) years of age or older, by means of oral, written or electronic communication, electronic mail or Internet services, directly or through another, to intentionally command, request, hire, persuade, invite or attempt to induce a person whom the person making the solicitation knows, or should know, is less than eighteen (18) years of age, or solicits a law enforcement officer posing as a minor, and whom the person making the solicitation reasonably believes to be less than eighteen (18) years of age, to engage in conduct that, if completed, would constitute a violation by the soliciting adult of one (1) or more of the following offenses:

- (1) Rape of a child, pursuant to § 39-13-522;
- (2) Aggravated rape, pursuant to § 39-13-502;
- (3) Rape, pursuant to § 39-13-503;

- (4) Aggravated sexual battery, pursuant to § 39-13-504;
- (5) Sexual battery by an authority figure, pursuant to § 39-13-527;
- (6) Sexual battery, pursuant to § 39-13-505;
- (7) Statutory rape, pursuant to § 39-13-506;
- (8) Especially aggravated sexual exploitation of a minor, pursuant to § 39-17-1005;

or

- (9) Sexual activity involving a minor, pursuant to § 39-13-529.

(b) It is no defense that the solicitation was unsuccessful, that the conduct solicited was not engaged in, or that the law enforcement officer could not engage in the solicited offense. It is no defense that the minor solicited was unaware of the criminal nature of the conduct solicited.

(c) A violation of this section shall constitute an offense one (1) classification lower than the most serious crime solicited, unless the offense solicited was a Class E felony, in which case the offense shall be a Class A misdemeanor.

(d) A person is subject to prosecution in this state under this section for any conduct that originates in this state, or for any conduct that originates by a person located outside this state, where the person solicited the conduct of a minor located in this state, or solicited a law enforcement officer posing as a minor located within this state.

39-13-507. Spousal Rape

(a) A person does not commit an offense under this part if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c).

(b) (1) “Spousal rape” means the unlawful sexual penetration of one spouse by the other where:

- (A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;
- (B) The defendant causes serious bodily injury to the victim; or
- (C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.

- (2) (A) “Spousal rape”, as defined in subdivision (b)(1)(A) or (B), is a Class C felony.
- (B) “Spousal rape”, as defined in subdivision (b)(1)(C) shall be punished pursuant to 39-13-502 or 39-13-503.

39-13-507. Spousal Sexual Battery

(a) A person does not commit an offense under this part if the victim is the legal spouse of the perpetrator except as provided in subsections (b) and (c).

(d) (1) “Spousal sexual battery” means the unlawful sexual contact by one (1) spouse of another where:

(A) The defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;
(B) The defendant causes serious bodily injury to the victim; or
(C) The spouses are living apart and one (1) of them has filed for separate maintenance or divorce.

- (2) (A) “Spousal sexual battery,” as defined in subdivision (d)(1)(A) or (B), is a class D felony.
(B) “Spousal sexual battery,” as defined in subdivision (d)(1)(C) shall be punished pursuant to 39-13-504 or 39-13-505.

39-13-506. Statutory rape

(a) Mitigated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but not more than five (5) years older than the victim.

(b) Statutory rape is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:

(1) The victim is at least thirteen (13) but less than fifteen (15) years of age and the defendant is at least four (4) years but less than ten (10) years older than the victim; or

(2) The victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is more than five (5) but less than ten (10) years older than the victim.

(c) Aggravated statutory rape is the unlawful sexual penetration of a victim by the defendant, or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least ten (10) years older than the victim.

- (d) (1) Mitigated statutory rape is a Class E felony.
(2) Statutory rape is a Class E felony.
(3) Aggravated statutory rape is a Class D felony.

39-13-532. Statutory rape by an authority figure

(a) Statutory rape by an authority figure is the unlawful sexual penetration of a victim by the defendant or of the defendant by the victim when:

(1) The victim is at least thirteen (13) but less than eighteen (18) years of age;

(2) The defendant is at least four (4) years older than the victim; and

(3) The defendant was, at the time of the offense, in a position of trust, or had supervisory or disciplinary power over the victim by virtue of the defendant's legal, professional, or occupational status and used the position of trust or power to accomplish the sexual penetration; or

(4) The defendant had, at the time of the offense, parental or custodial authority over the victim and used the authority to accomplish the sexual penetration.

(b) Statutory rape by an authority figure is a Class C felony and no person who is found guilty of or pleads guilty to the offense shall be eligible for probation pursuant to § 40-35-303 or judicial diversion pursuant to § 40-35-313.

39-13-309. Trafficking for sexual servitude

(a) A person commits the offense of trafficking a person for sexual servitude when that person knowingly subjects or maintains another in sexual servitude or knowingly recruits, entices, harbors, transports, provides or obtains by any means another person for the purpose of sexual servitude.

(b) Trafficking for sexual servitude is a Class B felony.

39-6-1137. Use of Minors for Obscene Purposes

(a) It shall be a felony, punishable by imprisonment for not less than three (3) years nor more than twenty-one (21) years and a fine of not more than ten thousand dollars (\$10,000), for any person:

(1) To knowingly promote, employ, use or permit a minor to engage in or assist others to engage in:

(A) Posing or modeling alone or with others in any performance of sexual conduct for purposes of preparing a film, photograph, negative, slide or motion picture or other matter which is obscene;

(B) Sexual conduct by the minor alone or with other persons or animals; or

(C) Promoting any matter which depicts any minor posing alone or with others in any sexual performance which is obscene.

(2) Who, with knowledge that a person is a minor, or who, while in possession of such facts that he or she shall reasonably know that such person is a minor, hires, employs, solicits, entices, or uses a minor to do or assist in doing any of the acts described in subdivision (1) of this subsection.

(b) As used in this section:

(1) “Community” as used herein means the State of Tennessee;

(2) “Knowingly” as used above means having actual or constructive knowledge of the subject matter. A person shall be deemed to have constructive knowledge of the contents if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the material;

(3) “Matter” means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture film, or other pictorial representation, or any statue, figure, device, theatrical production or live performance, or any recording, transcription, or mechanical, chemical or electrical reproduction, or any other article, equipment, machine or material that is obscene as defined by 39-6-1101—39.6.117;

(4) “Minor” means any person who has not reached the age of eighteen (18) years;

(5) “Person” as used in this section shall include the singular and the plural and shall mean and include any individual, firm, partnership, copartnership, association, corporation, or other organization or other legal entity, or any agent or servant thereof;

(6) “Promote” shall mean to produce, direct, manufacture, issue, sell, lend, mail, publish, exhibit or advertise;

(7) “Prurient interest” means a shameful or morbid interest in sex;

(8) “Obscene” means:

(A) That the average person applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;

(B) That the work depicts or describes, in a patently offensive way, sexual conduct; and

(C) That the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(9) “Sexual conduct” as used in this section shall include but not be limited to sexual intercourse; sodomy; sexual bestiality; masturbation; sado-masochistic abuse; excretion; or the exhibition of the male or female genitals.